

UNITED STATES DISTRICT COURT

Southern District Of California
Office Of The Clerk
880 Front Street, Room 4290
San Diego, California 92101-8900
Phone: (619) 557-5600
Fax: (619) 702-9900

W. Samuel Hamrick, Jr.
Clerk of Court

5-07-mj-70293-HRL

January 22, 2008

FILED
FEB 2 2008

JAN 23 2008

Clerk, U.S. District Court
Northern District of California
280 South 1st Street
San Jose, CA 95113

U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE, CALIFORNIA

Re: 08mj0002-CAB, USA v. Rafael Mendoza

Dear Clerk of the Court:

Enclosed please find copies of the following documents in connection with removal proceedings conducted in this District regarding the above named defendant:

<input checked="" type="checkbox"/> Docket Sheet	<input checked="" type="checkbox"/> Warrant of Removal
<input checked="" type="checkbox"/> Complaint	<input type="checkbox"/> Order of Removal
<input type="checkbox"/> Minute Order Appointing Counsel	<input type="checkbox"/> Detention Order
<input type="checkbox"/> Corporate Surety Bond	<input type="checkbox"/> Waiver of Removal
<input type="checkbox"/> Personal Surety Bond	
<input type="checkbox"/> Other	

Please acknowledge receipt of the above documents on the enclosed copy of this letter.

Sincerely yours,

W. Samuel Hamrick, Jr.
Clerk of Court

By: s/J. Hinkle
Deputy Clerk

CLOSED

U.S. District Court
Southern District of California (San Diego)
CRIMINAL DOCKET FOR CASE #: 3:08-mj-00002-CAB All Defendants
Internal Use Only

Case title: USA v. Mendoza

Date Filed: 01/02/2008

Date Terminated: 01/17/2008

Assigned to: Magistrate Judge Cathy
Ann Bencivengo

Defendant

Rafael Mendoza (1)

TERMINATED: 01/17/2008

represented by **Federal Defenders**

Federal Defenders of San Diego

225 Broadway

Suite 900

San Diego, CA 92101-5008

(619)234-8467

Fax: (619)687-2666

Email: cassd_ecf@fd.org

TERMINATED: 01/08/2008

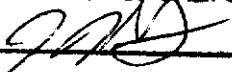
LEAD ATTORNEY

ATTORNEY TO BE NOTICED

*Designation: Public Defender or
Community Defender Appointment*

I hereby attest and certify on 01/22/08
That the foregoing document is a full, true and correct
copy of the original on file in my office and in my legal
custody.

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

By  Deputy

Bridget Kennedy

Federal Defenders of San Diego

225 Broadway

Suite 900

San Diego, CA 92101

(619)234-8467

Fax: (619)687-2666

Email: bridget_kennedy@fd.org

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

*Designation: Public Defender or
Community Defender Appointment*

Pending Counts

None

Disposition

Highest Offense Level (Opening)

None

Terminated Counts**Disposition**

None

Highest Offense Level (Terminated)

None

Complaints**Disposition**8:1326 - Deported Alien Found in the
United States**Plaintiff**

USA

represented by **U S Attorney CR**

U S Attorneys Office Southern District
of California
880 Front Street
Room 6293
San Diego, CA 92101
(619)557-5610
Fax: (619)557-5917
Email: Efile.dkt.gc2@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
*Designation: Assistant United States
Attorney*

Date Filed	#	Docket Text
12/31/2007	●	Arrest of Rafael Mendoza on 12/31/07 (jmp) (Entered: 01/04/2008)
01/02/2008	●1	OUT OF DISTRICT COMPLAINT as to Rafael Mendoza (1). (knh) (Entered: 01/02/2008)
01/03/2008	●2	Minute Entry for proceedings held before Judge Cathy Ann Bencivengo :Initial Appearance on complaint as to Rafael Mendoza held on 1/3/2008, Federal Defenders appointed for Rafael Mendoza. Bond set as to Rafael Mendoza (1) No Bail, Oral Motion to detain by Gov't(flight). Detention Hearing set for 1/17/2008 09:30 AM in Courtroom E before Magistrate Judge Cathy Ann Bencivengo. Removal/ID Hearing set for 1/17/2008 09:30 AM in Courtroom E before Magistrate Judge Cathy Ann Bencivengo. (Tape #CAB08-10:28-10:35).(Plaintiff Attorney Fred Sheppard AUSA).(Defendant Attorney Norma Aguilar FD S/A). (jmp) (Entered: 01/04/2008)
01/03/2008	●3	ORAL MOTION to Detain by USA as to Rafael Mendoza. (jmp) (Entered: 01/04/2008)

01/08/2008	●4	NOTICE OF ATTORNEY APPEARANCE: Bridget Kennedy appearing for Rafael Mendoza (Kennedy, Bridget) (jcj). (Entered: 01/08/2008)
01/17/2008	●5	Minute Entry for proceedings held before Judge Cathy Ann Bencivengo : Removal/Identity Hearing held. Government calls DHS agent, Christopher Albert Salgado called/sworn/testified. Court finds Dft to be Rafael Mendoza. Court orders Dft to be removed to Northern District of California; Warrant of Removal issued to USM; Dft to be transported forthwith. Court orders Dft detained pending removal due to no bail bench warrant issued from Northern District of California. Detention Hearing not held; Govt's ORAL MOTION to Detain [3-1] - Moot. (Tape #CAB08-9:58-10:23.)(Plaintiff Attorney Fred Sheppard, AUSA). (Defendant Attorney Bridget Kennedy, FD). (jhh) (Entered: 01/22/2008)
01/17/2008	●6	WARRANT of Removal to Northern District of California Issued as to Rafael Mendoza. (Attachments: # 1 Letter of Removal)(Letter Sent)(jhh) (Entered: 01/22/2008)

Warrant of Removal (After Hearing)UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

v.

RAFAEL MENDOZA

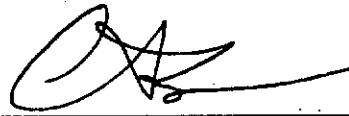
Magistrate Case
No. 08MJ0002WARRANT OF REMOVAL
(After Hearing)

To: United States Marshal

A complaint having been filed in the Northern District of California, charging defendant **RAFAEL MENDOZA**, with deported alien found in the United States, in violation of Title 8, United States Code, Section 1326, and the above-named defendant having been arrested in this district and, after a hearing pursuant to Federal Rules of Criminal Procedure 5(c) and 5.1(a), having been committed by a United States Magistrate Judge to your custody pending his removal to that district,

You are hereby commanded to commit the above-named defendant forthwith to the Northern District of California and there deliver him to the United States Marshal for that district or to some other officer authorized to receive him.

I hereby attest and certify on 01/22/08
That the foregoing document is a full, true and correct
copy of the original on file in my office and in my legal
custody.

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIABy MM DeputyDated at San Diego, California, this 17 day of Jan, 2008.

 HON. CATHY A. BENCIVENGO
 United States Magistrate Judge

RETURN

Northern District of California (at San Jose)

ss

Received the within warrant of removal the _____ day of _____, 2008, and
executed same.

RECEIVED

2008 JAN 17 P 2:35

U.S. MARSHAL
SOUTHERN DISTRICT OF
CALIFORNIA

U. S. Marshal

By _____ Deputy Marshal

Arrest on Out-of-District Offense

UNITED STATES DISTRICT COURT**SOUTHERN DISTRICT OF CALIFORNIA**

2008 JAN -2 AM 8:44

ARREST ON OUT-OF-DISTRICT OFFENSE

KWH DEPUTY

Magistrate Case Number: 08 MJ 0002

The person charged as Rafael Mendoza now appears before this United States District Court for an initial appearance as a result of the following charges having been filed in the United States District Court for the Northern District of California with Deported Alien Found in the United States, in violation of Title 8, United States Code, 1326

The charging documents and the warrant of the arrest of the defendant which was issued by the above United States District Court are attached hereto.

I hereby swear under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

DATED: 12/31/07Christopher Salgado

(Name)

Reviewed and Approved:

Dated: 12/31/07

Assistant United States Attorney

AO 442 (Rev. 5/93) Warrant for Arrest

United States District Court
Northern District of California

UNITED STATES OF AMERICA,

v.

WARRANT FOR ARREST

RAFAEL MENDOZA

07 70293

HRL

To: The United States Marshal
and any Authorized United States Officer

YOU ARE HEREBY COMMANDED to arrest RAFAEL MENDOZA

and bring him or her forthwith to the nearest magistrate judge to answer a(n)

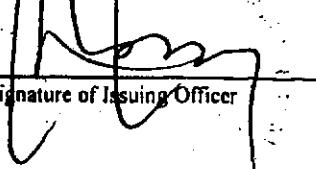
(Indictment Information Complaint
 Order of Court Violation Notice Probation Violation Petition

charging him or her with

Unlawfully re-entered and was found in the United States after deportation, without the permission of the
Attorney General

in violation of Title 8 United States Code, Section(s) 1326

Howard R. Lloyd
Name of Issuing Officer


Signature of Issuing Officer

U.S. Magistrate Judge
Title of Issuing Officer

May 18, 2007, San Jose, CA
Date and Location

Bail fixed at \$ No Bail

by Howard R. Lloyd
Name of Judicial Officer

RECEIVED
U.S. MARSHAL

MAY 18 2007
PSS

RETURN		ORIGINAL WARRANT HELD BY U.S. MARSHALS, SAN JOSE NOTIFY ABOVE OFFICE UPON ARREST DO NOT MAKE RETURN ON THIS COPY
This warrant was received and executed with the arrest of the above-named defendant at		
Date received	Name and Title of Arresting Officer	Signature of Arresting Officer
Date of Arrest		

United States District Court

NORTHERN

DISTRICT OF

CALIFORNIA

FILED

UNITED STATES OF AMERICA

2007 MAY 18 A (C)

V.

CRIMINAL COMPLAINT

Mendoza, Rafael

(Name and Address of Defendant)

RICHARD W. WIEKI
CLERK
U.S. DISTRICT COU
NO. DIST. OF CA. S

07 70293

H R L

CASE NUMBER:

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On a date unknown but no later than, March 29, 2007, in Santa Clara County in the Northern District of California defendant(s) was, (Track Statutory Language of Offense)

Unlawfully re-entered and was found in the United States after deportation, without the permission of the Attorney General

in violation of Title 8 United States Code, Section(s) 1326
 I further state that I am a(n) Deportation Officer and that this complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT

PENALTIES: \$250,000.00 fine, twenty (20) years imprisonment, \$100.00 special assessment fee, and a Term of Supervised Release up to three years.

Requested bail: Issue no bail warrant.

APPROVED AS TO FORM:

ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: Yes No

Sworn to before me and subscribed in my presence,

Signature of Complainant

5/18/07
Date

at

San Jose, California

City and State

Howard R. Lloyd

United States Magistrate Judge

Name & Title of Judicial Officer

Signature of Judicial Officer

RE: MENDOZA, Rafael A92 990 518

I am a Deportation Officer of the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE) and have been employed since July 7, 1997. I am currently assigned to the Criminal Alien Program (CAP) Unit of the San Jose Sub-Office. In such capacity, I have reviewed the official file relating to the above named individual, which attests to the following:

- (1) Mr. MENDOZA is a 50-year-old male who has used fifteen (15) aliases and four (4) dates of birth in the past.
- (2) Mr. MENDOZA has been assigned one (1) Alien Registration number of A92 990 518, FBI number of 676178X8, California Criminal Information Index number of A07208783, and Santa Clara Department of Correction number CUJ891.
- (3) Mr. MENDOZA is a native of Mexico and a citizen of Mexico since birth. A check through official records shows that he was arrested and deported on one (1) occasion from the United States:

<u>DATE</u>	<u>PLACE OF DEPORTATION</u>
September 13, 2000	Calexico, CA

- (4) Mr. MENDOZA last entered the United States at or near San Luis, AZ on or after September 13, 2000, by crossing the international border without inspection subsequent to deportation.
- (5) Mr. MENDOZA on a date unknown, but no later than March 29, 2007, in Santa Clara County in the Northern District of California, was found to be unlawfully present in the United States, after prior arrests and deportation, without the permission of the Attorney General or the Secretary of Homeland Security, in violation of Title 8, United States Code, Section 1326. On April 11, 2007, Mr. MENDOZA was interviewed by Immigration Enforcement Agent (IEA) Erin Diep at the Santa Clara County Jail Elmwood, Milpitas, CA, and during that interview, Mr. MENDOZA was advised of his **Miranda** rights in Spanish. Mr. MENDOZA waived his **Miranda** rights and provided a written sworn statement attesting to his alienage, prior deportation, and failure to obtain permission from the Attorney General or the Secretary of Homeland Security to re-enter the United States.

RE: MENDOZA, Rafael A92 990 518

- (6) Mr. MENDOZA was, on June 25, 1990, convicted in the Superior Court of California, in and for the County of Santa Clara, for the offense of BURGLARY: SECOND DEGREE, a felony, in violation of Section 460.2 of the California Penal Code, and was sentenced to twenty-six (26) days in jail.
- (7) Mr. MENDOZA was, on July 1, 1991, convicted in the State of Washington, County of Yakima, for the offense of POSSESSION OF HEROIN OR SCHEDULE 1 OR 2 NON-NARCOTIC, a class C felony, in violation of Section 69.50.401(d), and was sentenced to seventeen (17) days in jail.
- (8) Mr. MENDOZA was, on February 10, 1992, convicted in the Superior Court of California, in and for the County of Los Angeles, for the offense of POSSESSION NARCOTIC CONTROLLED SUBSTANCE, a felony, in violation of Section 11350(a) of the California Health and Safety Code, and was sentenced to one hundred twenty (120) days in jail.
- (9) Mr. MENDOZA was, on March 31, 1992, convicted in the Superior Court of California, in and for the County of Santa Clara, for the offense of POSSESSION NARCOTIC CONTROLLED SUBSTANCE, a felony, in violation of Section 11350(a) of the California Health and Safety Code, and was sentenced to seventy-five (75) days in jail.
- (10) Mr. MENDOZA was, on April 3, 1996, convicted in the Superior Court of California, in and for the County of Santa Clara, for the offense of ASSAULT UPON PEACE OFFICER WITH DEADLY WEAPON, a felony, in violation of Section 245(C) of the California Penal Code, and was sentenced to three (3) years in prison.
- (11) On the basis of the above information, there is probable cause to believe that Mr. MENDOZA illegally re-entered the United States, in violation of Title 8, United States Code, Section 1326.

Trong Q. Nguyen
Deportation Officer
Immigration and Customs Enforcement

Subscribed and sworn to before me this 18 day of May, 2007

HOWARD R. LLOYD
UNITED STATES MAGISTRATE JUDGE